

## **REMARKS**

In the Action, claims 1-3, 7, 9, 11-13, 16, 17, 22, 24, 25 and 28-33 are rejected. Claims 10 and 26 are allowed.

In response, claims 9, 12 and 22 are amended, and claims 17, 28 and 30-33 are cancelled. In particular, claim 12 is amended to include the subject matter of claim 17, and claim 22 is amended to include the subject matter of claim 28. Accordingly, these amendments are supported by the specification and claims as originally filed.

In view of these amendments and the following comments, reconsideration and allowance are requested.

### **Rejection of Claims 1, 9 and 11**

Claims 1, 9 and 11 are rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent Publication No. 2005/0158252 to Romanowski et al. Romanowski et al. is cited for allegedly disclosing each of the claimed features.

Applicants previously submitted a Declaration Under 37 C.F.R. § 1.131 to swear back of the effective date of Romanowski et al. The Declaration shows conception and reduction to practice of the oral composition as claimed prior to the effective date of Romanowski et al. The evidence presented with the Declaration specifically shows conception of each of the components recited in claim 1, thus establishing a date of invention prior to the effective date of Romanowski et al. The evidence attached to the Declaration also specifically discloses each of the components of dependent claim 9 and claim 11, which depend from claim 1. The previous Action appeared to suggest that the evidence attached to the Declaration must disclose the claimed invention verbatim. However, the law does not require that the claim be recited verbatim in the evidence in a Declaration to establish a prior date of invention. The Declaration

and evidence relied on is not required to show only what is recited in the claims. The evidence shows conception of each of the compositions within the scope of claims 1, 9 and 11.

Accordingly, the Declaration is sufficient to establish a date of invention prior to the effective date of Romanowski et al. so that Romanowski et al. should be removed as a reference.

Moreover, it would not have been obvious to one skilled in the art in view of Romanowski et al. to combine the claimed components in the specific amounts as recited in claim 1 for inhibiting the growth of oral bacteria and to inhibit inflammation of oral tissue as in claim 1. Romanowski et al. is primarily directed to a composition comprising Xylitol, a benzoate as an antimicrobial agent, a breath freshener and an emulsifying agent. Romanowski et al. discloses a large number of additional components which can optionally be included in the composition. Romanowski et al. provides no guidance or suggestion to one skilled in the art to combine the components as recited in the claims. The broad general disclosure in Romanowski et al. provides potentially hundreds of combinations with no guidance to combine the components in the manner of the claimed invention.

The Action provides no basis or rationale for the position that it would have been obvious to select and combine the randomly disclosed components of Romanowski et al. in the manner of the claimed invention. Specifically, it would not have been obvious to one skilled in the art to provide an oral composition containing 5 to 15 wt% of a holistic extract of the *Centipeda* genus, 10 to 35 wt% coenzyme Q10, 10 to 35 wt% aloe vera, 10 to 35 wt% folic acid, and 2 to 10 wt% Vitamin E in combination with the gota kola, bio-saponin, thyme oil and olive leaf as in claim 1.

Contrary to the suggestion in the Action, Romanowski et al. does not disclose a holistic extract of *Centipeda* as in the claimed invention. As disclosed in paragraph 0034 of the specification, a holistic mixture of the active components in the extract contains the components

in substantially the same ratio as present in the native plant material. The process for obtaining the holistic extract is disclosed in paragraph 0035 of the present specification. Thus, contrary to the suggestion in the Action, the specification defines the meaning of a holistic extract and discloses a method for obtaining the holistic extract. Thus, the specification defines the claimed holistic extract of the *Centipeda* genus in a manner not suggested by Romanowski et al.

Applicants have found that each of the components in the claimed composition exhibit a particular function and provide a specific property to the composition when combined in the oral composition to inhibit inflammation. Each of the components provide a specific function which when combined provide a result that is not exhibited by the composition of Romanowski et al. The enhanced performance of the claimed composition is obtained by the specific combination. For example, the bio-saponin is a natural surfactant which breaks down the outer layer of cells and other waxy layers which enables the gota kola to function more effectively to promote lysis of bacteria. The bio-saponin also enhances the performance of other components such as the *Centipeda* extract, coenzyme Q10, aloe vera, folic acid and Vitamin E. Romanowski et al. does not disclose or suggest the function of the components, and thus, provides no suggestion to one skilled in the art to combine the components in the manner of the claimed invention.

In view of the deficiencies of Romanowski et al., claims 1, 9 and 11 are allowable. Accordingly, Applicants respectfully submit the rejection should be withdrawn.

#### **Rejection of Claims 1-3, 5-7, 9-14 and 16-33**

Claims 1-3, 5-7, 9-14 and 16-33 are rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent Publication No. 2002/0044977 to Close in view of the article by Harrison and U.S. Patent No. 5,741,138 to Rice et al.

Close does not disclose or suggest a holistic extract of *Centipeda cunninghami* as defined in the specification and as recited in claim 1. Moreover, Close does not suggest to one skilled in the art a composition containing the claimed holistic extract of *Centipeda* in combination with the coenzyme Q10, aloe vera, folic acid, Vitamin E, gota kola, bio-saponin, thyme oil and olive leaf as in claim 1. Harrison and Rice et al. disclose various plant components but provide no suggestion to one skilled in the art to combine the components in the manner of the claimed invention. The Action provides no reasonable rationale for the position that it would have been obvious to combine the components in the manner of the claimed invention.

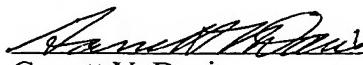
The claimed combination of components is not a random selection, but rather a combination based on experimentation to provide anti-inflammatory properties for treating oral tissue. The specifically claimed combination of components and the amounts of the components provide a moisturizing feel to the mouth while being effective in inhibiting inflammation and inhibiting the growth of oral bacteria. In contrast, the compositions of Close, Harrison and Rice et al. typically exhibit an astringent or drying feel to the mouth. One skilled in the art would not have been motivated to select the specific components of Close, Harrison and Rice et al. and combine the components in the manner of the claimed invention with a reasonable expectation of success in inhibiting the growth of oral bacteria and inhibiting inflammation of oral tissue. Accordingly, claims 1-3, 7 and 9 are not obvious over the combination of Close, Harrison and Rice et al.

Independent claims 12 and 22 are amended to recite that the composition includes an antiseptic agent consisting essentially of a mixture of oregano oil, clove oil, oil of lavender, thyme oil, bio-saponin, gota kola, chlorophyll, peppermint oil, eucalyptus oil, cinnamon bark oil, folic acid, prickly ash bark extract, calendula extract, echinacea extract, chamomile extract, olive

leaf extract, black walnut extract, grapefruit seed extract and green tea extract. The combination of the cited patents does not suggest to one skilled in the art an antiseptic agent consisting essentially of the recited components either alone or in combination with the extract of *Centipeda*, coenzyme Q10, folic acid and aloe vera in the amounts recited in independent claims 12 and 22. Accordingly, it would not have been obvious to one skilled in the art to combine the components in the claimed amounts based on the disclosures of Close, Harrison and Rice et al.

In view of these amendments and the above comments, the claims are submitted to be in condition for allowance. Accordingly, reconsideration and allowance are requested.

Respectfully submitted,

  
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